

Entered -2-22-00 - sb  
CL 00L0074 - GWENDOLYN BURNS

CLAIM OF: JOANNE E. WALTER TALLY  
280 King Road  
Atlanta, Georgia 30342

01-*R*-1555

For vehicular damages alleged to have been sustained from a construction site that was improperly covered in the roadway on an unspecified date at an unspecified location.

THIS ADVERSED REPORT IS  
APPROVED

BY: *Rosalind Rubens Newell*  
ROSALIND RUBENS NEWELL  
DEPUTY CITY ATTORNEY *Robert N. Gey DCA*

## DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0074

Date: September 13, 2001

Claimant /Victim JOANNE E. WALTER TALLY  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 280 King Road, Atlanta, Georgia 30342  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ 79.00 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 2/16/01 Method: Written, Proper \_\_\_\_\_ Improper X  
Conforms to Notice: O.C.G.A. §36-33-5 \_\_\_\_\_ Ante Litem (6 Mo.) X  
Date of Occurrence Unspecified Place: Unspecified  
Department PUBLIC WORKS Division \_\_\_\_\_  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

**NATURE OF CLAIM:** Claimant alleges that her vehicle sustained damage when she drove over a construction site in the roadway that was improperly covered. However, the claim as presented does not comply with the same requirements of notice as set forth in O.C.G.A. Section 36-33-5(b) in that the claimant failed to provide the date and location of the incident. Moreover, the claimant has elected not to pursue her claim.

### INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral \_\_\_\_\_  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report \_\_\_\_\_ Other X  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

### BASIS OF RECOMMENDATION:

Function: Governmental \_\_\_\_\_ Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other X Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement \_\_\_\_\_  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent \_\_\_\_\_ Joint \_\_\_\_\_ Claim Abandoned X

Respectfully submitted,

Gwendolyn Burns  
INVESTIGATOR - GWENDOLYN BURNS

### RECOMMENDATION:

Pay \$ \_\_\_\_\_ Adverse X Account charged: 1A01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_  
Claims Manager: David C. Smith Concur/date 09-14-01  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

Joanne E. Walter Tally  
280 King Rd.  
Atlanta, Georgia 30342  
404-846-1167

BURNS  
02/16/00

January 12, 2000

Commissioner of Highway & Streets  
Norman Kaplan  
68 Mitchell St. SW  
Suite 34700  
Atlanta, Ga. 30335

ENTERED - 2-22-00 - SB  
00LO074 - GWEN BURNS

Re: Damage to (2) vehicles requiring the alignment - Pot Holes and Drainage Basins

Dear Sir:

Enclosed please find a copy of a bill for the wheel alignment of my S420 Mercedes (Silver). Forthcoming, will be a bill for my other S420 Mercedes (Black). Let me explain.

*Argument*  
I do not know what has happened to our streets around where I live and drive, but it is becoming more and more difficult to drive in this Buckhead area. Take my street for an example. There are two huge cuts on the street, King Rd., one near the intersection of Northside Dr. about 4 houses up on the left/King Rd. This large cut has been semi fixed. What I mean is that it lacks being level with the street by more than six inches. At night, one simply cannot detect this drop in the street. Sometimes, it is impossible to miss if there are cars parked on the other side of it and there is oncoming traffic. This is one of the areas that I have hit more than once. Then, across from my property, a huge hole was dug and not repaired for many months. Recently, the street has started to cave in slightly. This occurred down on West Conway about  $\frac{1}{2}$  mile from Northside Dr. A big sink hole collapsed the street. It took many weeks to fix it. Then, it was done so poorly that hitting the area jarred your teeth everytime you drove over it. Another area that is impossible to miss is on Habersham Drive, right at the intersection of ~~Muskogee~~ Dr. The street was paved, but they never bothered to raise the sewer drain. It sticks out into the road 6 or 7 feet. It is impossible to corner that curve and miss oncoming traffic without having a head on collision. Old Ivy Rd. is another newly paved street with many unlevel manholes.

Mr. Kaplan, I have two really expensive cars and I like to take very good care of them. I drive both of them because my husband lost his leg last year to diabetes and we continue to keep his car in anticipation of him one day driving again. I'm sick and tired of hitting these holes and tearing up my cars. It is impossible to miss most of them even when you know they are coming. One hole that is impossible to miss and where the speed limit is around 30MPH is in front of the Post Chastain Apartments on Roswell Rd. The manhole has dropped over 6 inches and when you hit this hole and most of the time it is unavoidable, you think that the wheels are going to come right off the auto.

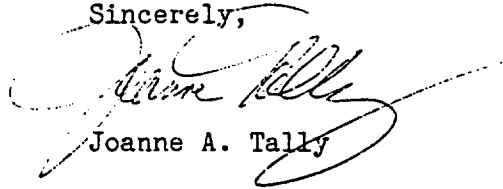
I could go on and on about this matter. I can give you streets, addresses and any other statistics you might want, but surely others have notified you of this situation besides me.

As I mentioned above, I have enclosed a copy of the bill from Butler Tires for \$79.00. My tires on both of my autos are new and expensive. I had to have the silver one fixed and now I will bring the other one in for repair.

I will be sending you another bill for that repair.

If you have any questions about this matter, I am available for comment.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joanne Tally", is written over the typed name.

Joanne A. Tally

JAT/jt

01- R-1555